

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:06CV317

DAVID FOTIADIS,

Plaintiff,

vs.

QUALITY SYSTEMS, INC. and
NEXTGEN HEALTHCARE
INFORMATION SYSTEMS, INC.,

Defendants.

ORDER

This matter is before the court upon motions of the Defendants to dismiss Count IV of Plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted. The Plaintiff has failed to respond to these motions.

This is a lawsuit to recover an allegedly unpaid commission and bonus brought by Plaintiff, a former employee and sales representative of the Defendant Quality Systems, Inc. Plaintiff's Fourth Cause of Action attempts to state a claim under the North Carolina Unfair and Deceptive Trade Practices Act, N.C.Gen.Stat. §§ 75-1.1 *et seq.* ("UDTPA"). One of the essential elements of a UDTPA claim is that the unfair and deceptive act or practice affect commerce. Here, there is no allegation that the alleged failure to pay Plaintiff a commission or bonus had any effect on commerce outside of the parties' employment relationship. See Durling v. King, 146 N.C.App. 483, 554 S.E.2d 1 (N.C. App. 2001). Accordingly,

IT IS THEREFORE ORDERED that Defendants' motions to dismiss Count IV are hereby GRANTED, and Count IV of the Plaintiff's Complaint is hereby dismissed with prejudice.

IT IS SO ORDERED.

Signed: March 8, 2007



Graham C. Mullen
United States District Judge

